

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GEORGE LEE, E15396,)	
)	
Plaintiff(s),)	No. C 12-5153 CRB (PR)
)	
v.)	ORDER OF DISMISSAL
)	
SALINAS VALLEY STATE PRISON,)	
)	
Defendant(s).)	

Plaintiff, a prisoner at Salinas Valley State Prison (SVSP), has filed a pro se complaint under 42 U.S.C. § 1983 alleging denial of access to the courts. Plaintiff raised the same allegations and claim in a prior prisoner complaint, which is still pending. See Lee v. Hedgpeth, No. C 12-5003 CRB (PR) (N.D. Cal. filed Sept. 25, 2012).

A prisoner complaint that merely repeats pending or previously litigated claims may be considered abusive and dismissed under the authority of 28 U.S.C. § 1915A. Cf. Cato v. United States, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995) (citing Bailey v. Johnson, 846 F.2d 1019, 1021 (5th Cir. 1988)) (duplicative in forma pauperis complaint may be considered abusive and dismissed under 28 U.S.C. § 1915). Because plaintiff raised and is litigating the same allegations and claim raised herein in Lee v. Hedgpeth, No. C 12-5003 CRB (PR), the instant complaint is deemed duplicative and abusive under § 1915A. That plaintiff adds

1 an new defendant in this later-filed action does not compel a different result. See
2 Bailey, 846 F.2d at 1021 (complaint repeating same allegations asserted in earlier
3 case, even if now filed against new defendants, is subject to dismissal as
4 duplicative).

5 The complaint is DISMISSED as duplicative under the authority of 28
6 U.S.C. § 1915A(b).

7 The clerk shall enter judgment in accordance with this order, terminate all
8 pending motions as moot, and close the file.

9 SO ORDERED.

10 DATED: Feb. 21, 2013

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13 CHARLES R. BREYER
14 United States District Judge
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